THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO.13220 of 2003

Dated: 18th October, 2006.

Between:

Sri Vigneswara Airport and Railway Station Area,
Taxi Owners cum Drivers Welfare Association,
Rep. by its Secretary, Rani Srinivas. .. Petitioner

And

Senior Manager, ATC, Visakhapatnam, Airport,
Visakhapatnam. .. Respondent

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ORDER:

The petitioner claims to be a registered society which was formed for the purpose of operating taxies from Visakhapatnam Airport to other places. It is stated that there are about 100 members in the society and all of them are owners-cum-drivers of the vehicles who are earning their livelihood by operating taxies. It is stated that the respondent had earlier proposed to introduce the prepaid taxi system at Visakhapatnam at Airport and wanted to allot a cabin to the petitioner association in the arrival lounge of Airport. For the said purpose, several discussions took place between the Airport Authorities and the Petitioner Association during the years 1997 to 2003. On 18-10-1997 in the meeting held among the authorities of the officials of the Airport, Police Department, Transport Department and the Petitioner Association, certain resolutions were passed with regard to fixation of tariff and etc. Even thereafter the members of the petitioner association participated in several meetings convened by the respondent and ultimately the respondent in the meeting held on 28-2-2003 had agreed to allot a cabin in arrival lounge in Visakhapatnam Airport to implement pre-paid taxi system. However, the same was not finalized and the pre-paid taxi system could not be introduced in the Visakhapatnam Airport as proposed. While so, the respondent issued a tender notice inviting tenders for introducing car rental facility at Civil Enclave, Visakhapatnam. As per the tender notice, the licence would be granted for a period of five years and the minimum rent per month was Rs.9,000/- or 5% of the gross turnover whichever is higher. While the tenders were scheduled to be opened on 8-7-2003, this writ petition was filed on 4-7-2003 seeking a declaration that the action of the respondent in issuing the said tender notice is arbitrary and illegal.

It is contended by the petitioner that in pursuance of the impugned tender notice if the individuals or firms are granted licence to run the cars on rentals, the members of the petitioner association would not get any work at the Airport and it would be against the

welfare of the members of the petitioner association. It is also contended that the introduction of the licensing system as proposed under the impugned tender notice would result in monopolizing the business of running taxies from the Airport in favour of a single person or a firm. The further contention is that having proposed to introduce the prepaid taxi system and having agreed to allot a cabin to the petitioner association in the arrival lounge of Airport, the respondent is estopped from going back and introducing licensing system. It is also contended that such system of granting licence to an individual by inviting tenders is not in practice in any other Airport and as a matter of fact in the Airports at Chennai and Hyderabad, the prepaid taxi system is being followed. Hence, the action of the respondent which is against the larger interest of the members of the petitioner association being violative of Article 21 of the Constitution of India is liable to be declared as arbitrary and illegal.

In the counter-affidavit filed on behalf of the respondent, it is admitted that there was a proposal by the Airport Authority of India to introduce the prepaid taxi system for public convenience at Visakhapatnam Airport. However, it is stated that it was never proposed to allot a cabin in the arrival lounge of the Airport to the petitioner association. As a matter of fact, the respondent Authorities proposed to allot a cabin to Visakhapatnam District Taxi Owners Association and made correspondence with the said association. The respondent had also approached the Regional Transport Officer and the Commissioner of Police for exploring the possibility of introducing the prepaid taxi system at Visakhapatnam Airport. In response, the Assistant Commissioner of Police (Traffic), Visakhapatnam sponsored the Visakhapatnam District Taxi Owners Association (VDTOA) for the purpose of introducing prepaid taxi service system at Visakhapatnam Airport vide letter dated 22-7-1997. The VDTOA had also issued its willingness vide letter dated 31-7-1997. Accordingly, a meeting was conducted on 18-10-1997, in which the officials of the Police

Department, Transport Department as well as the VDTOA had participated and discussed about the implementation of the prepaid taxi system. One representative of the petitioner association was also present in the said meeting as an observer with the consent of VDTOA. Ultimately, VDTOA had agreed to take up the prepaid taxi system and requested to allot the space for cabin in arrival lounge. Though the petitioner association had also made a representation for allotment of a counter for prepaid taxi system, the same was not considered since VDTOA alone was sponsored by the Police Department. The respondent never had any correspondence with the petitioner association. It is further stated that since the Police Department did not agree for the charges applicable to the Airport Authority of India, the prepaid taxi system could not be introduced in Visakhapatnam Airport. In the circumstances, the Commercial Department had instructed the respondent to take up the car rental facility in lieu of prepaid taxi system. Accordingly, the impugned tender notice was issued for car rentals. The averment of the petitioner that the system of car rental facility in the Airports is not in vogue at other places has been denied and it is stated that the impugned tender notice was issued as per the instructions given by the Commercial Department which are binding under Section 11 of the Airport Authority of India Act, 1994.

I have heard the learned Counsel for both the parties and perused the material on record.

The version of the respondent in the counter-affidavit that they never corresponded with the petitioner association for the purpose of introducing the prepaid taxi system and as a matter of fact the VDTOA was sponsored by the Assistant Commissioner of Police (Traffic), Visakhapatnam for the said purpose and accordingly there was a proposal to allot the space for cabin to VDTOA, remained unrebutted since the petitioner neither filed an affidavit-in-reply disputing the said version nor produced any material to substantiate its plea that there

was a proposal to allot a cabin in its favour for introduction of the prepaid taxi system.

For that reason itself, the contention of the petitioner that the respondent is estopped from proposing to provide the car rental facility in Visakhapatnam Airport by inviting tenders instead of prepaid taxi system cannot be countenanced.

At any rate, even according to the version of the petitioner, the prepaid taxi system was never introduced and the proposals made by the respondent for the said purpose were not fructified.

As can be seen from the counter-affidavit, the respondent was directed by the Commercial Department of the Head-Quarters to introduce the car rental facility and accordingly the impugned tender notice was issued. The said action of the respondent is neither in violation of any statutory provision nor vitiated on account of any arbitrariness or favouritism. The petitioner did not make any allegation of mala fides against any official of the respondent. It is not as if by providing the car rental facility at the Airport, the members of the petitioner association would be prohibited from operating their taxies at the Airport.

Hence, the contention of the petitioner that the action of the respondent would effect their livelihood and would be violative of Article 21 of the Constitution of India is without any substance and cannot be accepted.

For the aforesaid reasons, the writ petition is devoid of any merit and the same is accordingly dismissed. Needless to mention that the interim order of status quo granted pending the writ petition shall stand vacated.

(G.ROHINI, J)

18th October, 2006.

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